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2012 AUG 10 PM 3: 19

FIRST GENERAL COUNSEL'S REPORT

CELA
SENSITIVE

Pre-MUR 532

DATE SUBMITTED: 2/23/2012

DATE ACTIVATED: 3/19/2012

EXPIRATION OF SOL:

2/20/17 (earliest & latest)

SOURCE:

Sua Sponte Submission

RESPONDENT:

U.S. Chamber of Commerce

RELEVANT STATUTES
AND REGULATIONS:

2 U.S.C. § 434(f)

11 C.F.R. § 100.29

11 C.F.R. § 104.20

INTERNAL REPORTS CHECKED:

FEC Disclosure Reports Database

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The U.S. Chamber of Commerce (the "Chamber"), an incorporated trade association, filed a *sua sponte* submission ("Submission") regarding its failure to file timely 24-Hour electioneering communication reports ("FEC Form 9") for two television advertisements costing a total of \$253,264.86. We pursued this matter through Fast-Track Resolution ("FTR") pursuant to the Commission's *Sua Sponte* policy. 72 Fed. Reg. 16,695 (Apr. 5, 2007). We now recommend that the Commission accept the attached, signed conciliation agreement, which includes an \$11,000 civil penalty, and close the file in this matter.

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II. FACTUAL AND LEGAL ANALYSIS

In its Submission, the Chamber acknowledges that it produced and distributed two television advertisements in Illinois in February 2012, meeting the statutory definition of "electioneering communications" and failed to file FEC Forms 9 within 24 hours of their public dissemination. Chamber *Sua Sponte* Submission at 1 (Feb. 23, 2012), Pre-MUR 532 (U.S. Chamber of Commerce). One of the advertisements, entitled "Protect," referenced candidate Representative Robert Dold (Illinois 10th). Submission at 1. An FEC Form 9 attached to the Submission discloses \$129,458.57 in disbursements for this advertisement. The other advertisement, entitled "Working," referenced candidate Representative Judy Biggert (Illinois' 11th). *Id.* at 1-2. An attached FEC Form 9 discloses \$123,806.29 in disbursements for this advertisement.

An "electioneering communication" includes any broadcast, cable, or satellite communication that refers to a clearly identified candidate for federal office and is made within 30 days before a primary election for the office sought by the candidate; and in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate. 2 U.S.C. § 434(f)(3)(A); 11 C.F.R. § 100.29. Every person

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1 who makes a disbursement for the direct costs of producing and airing electioneering
2 communications in an aggregate amount in excess of \$10,000 during any calendar year, shall,
3 within 24 hours of each disclosure date, file a statement with the Commission containing, among
4 other things, the identification and principal place of business of the person making the
5 disbursement, the amount of each disbursement, and the elections to which the electioneering
6 communications pertain. 2 U.S.C. § 434(f)(1) and (2); 11 C.F.R. § 104.20(b) and (c). The
7 disclosure date means the first date on which the communication is publicly distributed. *See*
8 11 C.F.R. § 104.20(a)(1).

9 The Illinois Congressional primaries took place on March 20, 2012, making February 19,
10 2012, the first day of the electioneering communications period. Submission at 1. Both
11 advertisements began airing prior to February 19, 2012, but the last four days of each
12 advertisement's scheduled run, February 19-22, fell within the electioneering communications
13 period. *Id.* at 2. Both advertisements referred to Congressional candidates by name and were
14 broadcast on television in their Congressional districts within 30 days of their 2012 primary
15 elections. Accordingly, the advertisements satisfy the requirements for electioneering
16 communications. *See* 2 U.S.C. § 434(f)(3)(A)(i).

17 The Chamber acknowledges that it was required to file FEC Forms 9 for both
18 advertisements on Monday, February 20, 2012 (the President's Day holiday). *Id.* However,
19 according to the Submission, "[d]ue in significant part to the unusual circumstances (*i.e.*, the
20 ad[s] qualified as [] electioneering communication[s] for only part of [their] full run), coupled
21 with the federal holiday, [these] filing[s] [were] overlooked, and subsequently filed on February
22 22, 2012." *Id.* Because the Chamber did not timely file 24-Hour electioneering communication
23 reports in connection with the two advertisements, the Chamber violated 2 U.S.C. § 434(f).

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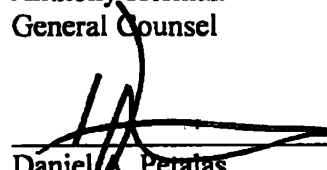
IV. RECOMMENDATIONS

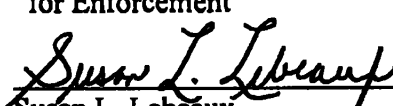
- 1) Open a MUR;
- 2) Accept the attached conciliation agreement with the U.S. Chamber of Commerce, prior to a finding of reason to believe;
- 3) Approve the appropriate letter;
- 4) Close the file.

Date

8/10/12

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